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Renaissance" hardly takes us back far enough into the city's history. As the author aptly puts it: "the history of Italian liberty, from the Middle Ages to the time of Charles VIII. (1494), is the history of the Italian cities." The history of these cities is therefore the *sine qua non* to an understanding of the subsequent development of the Italian people. The very first chapter of Mr. Villari's book deals with the origin of the city, a subject which seems to be lost in a confused mass of legends. We are, however, taken as far back as the beginning of the twelfth century. The second chapter treats of the "Origin of the Commune of Florence," and traces the administration of the city during the twelfth century. The remaining four chapters of the book treat of the "First Wars and Reforms of the City," "The Parties and Guilds of Florence," "The Predominance of Florence in Tuscany" and "The Commerce and Polity of the Guilds of Florence." To the economist the last chapter is by far the most interesting. The history of the seven guilds, their marvelous development and continual quarrels, forms one of the most interesting and suggestive periods in Italian history. The author brings out with great clearness the contrast between the flourishing condition of art and commerce, and the gradual decline of the political institutions which ended in the loss of that large measure of civic liberty, so characteristic of the earlier days of the republic. If the succeeding volumes are as full of instruction and interest as these first seven chapters, the work of Mr. Villari will take equal rank with his "Life of Savonarola."

Philadelphia.

L. S. ROWE.

Staatenbund und Bundesstaat, Untersuchungen über die Praxis und das Recht der modernen Bünde, von Dr. J. B. WESTERKAMP. Pp. 549. Leipzig, 1892.

The theory of the composite State and the best method of classifying its various forms ought to be of especial interest to us. Not only is our own government one of the most remarkable examples of its species, but its establishment in 1789 was the beginning of a movement which has spread over a great portion of the civilized world and rendered the composite State the most characteristic product of this century in the field of political organization. Hitherto, however, the speculation upon this topic has taken a variety of invariably hopeless turns. We have forgotten how numerous and diverse are the examples of composite States which this century alone has seen, Prof. Hart being, perhaps, the only one in this country who has given careful attention to the foreign unions. Over a dozen excellent examples

may be found, and at present the area subject to this form of government embraces three times that of all Europe. We have known only two forms of union, that under the Articles of Confederation, and our present Constitution, and have consequently not known these well. Our works in the United States have until very recently, at least, regarded our own Union as the normal federation, and we have given scanty attention to the variations which show themselves in other more recent unions, like those of Switzerland, Canada and especially Germany.

The English have, with the notable exception of Mr. Bryce, too readily accepted this view, Mr. Freeman confining his studies almost exclusively to a class of historical institutions of which we know but little, and which it is safe to say exercised no appreciable influence upon the renaissance of federal government in this century. In Germany, where a great deal of attention has been given, since the formation of the new empire, to the theory of the composite state, there has been a pretty complete failure to study other institutions than their own. The attempt, at times almost ludicrous, to generalize from a single highly autochthonous system, reaches its climax, in definitions of a federation which quite exclude our own form of government.

A comparative study of the best modern examples of composite States, Dr. Westerkamp rightly regards as a necessary preliminary to a correct definition of the terms confederation and federation. In accordance with this plan he has taken for comparison the following unions: The United Netherlands, the United States under the Articles of Confederation, the Swiss Confederation and the German Union of 1815, the United States under its present Constitution, Switzerland since 1848, the United States of Mexico, the Argentine Republic, Canada and the German Empire. Obviously there is an ample field of study here without considering the Greek unions which the author does well to neglect as irrelevant. Professor Westerkamp does not deceive himself as to the true character of all successful political organizations. "Forms of government serve human needs; they are to be understood only in the light of the conditions which called them forth, they are to be judged according to their effects upon the security, power and prosperity of the nation. Juristic logic and dialectic are means for the interpretation of constitution and laws, they must not, however, degenerate into fruitless or hurtful scholasticism, dealing with false or meaningless categories, they must not be abused for the purpose of obscuring the clear significance of constitution or laws. The Constitution of the United States of America, which must inevitably form the centre of investigations of modern unions was the result of mutual deference and concession." "This

constitution," the author continues, "will not stand the application of narrow-minded juristic logic which neglects the exigencies of political life and the necessity of numerous compromises." This is directed especially toward the methods represented by Laband, whose knowledge of, and interest in, comparative constitutional law is of the slightest. The conceptions of federation and confederation Dr. Westerkamp prophesies "must ultimately be brought down in Germany from that ærial region where ideas dwell together in harmony to the region of reality, '*wo die Sachen hart sich stossen.*'"

The descriptions given of the various constitutions show that the author has not contented himself with the study of texts, but has made a careful investigation of the actual workings of the governmental machinery. He has done this by a prolonged sojourn in the United States, Switzerland, Holland and Germany. The results of this painstaking method are clearly to be seen in his excellent comparison in their salient points of the leading characteristics of the various composite States. He takes up in order, the origin, competence, organization, action and guarantees of the Federal Government in each of the countries mentioned. By an occasional judicious *excursus* upon some interesting point the monotony inevitable to the enumeration of constitutional provisions is avoided.

In the last sixty pages of his book the author gives the conclusions reached after an examination of the various forms of union. He finds little difficulty in showing the weakness of the ordinarily accepted distinction between the Federation and the Confederation, as well as the inadequacy of the less common definitions which have been advanced from time to time, especially that of the eminent German jurist, Professor Paul Laband. The characteristic difference between Confederation (Staatenbund) and Federation (Bundesstaat) he claims does not lie in the scope of governmental powers *as such*, nor in the organization of the federal power, nor in the action of the federal government *as such*; it lies rather in the method of amending the constitution and the self-dependence of the federal government.

All the unions which have usually been classified as confederations agree in demanding the unanimous consent of all the States to a change of the constitution, whereas the federations, while they adopt a variety of forms of amendment, do not require unanimity. We find, moreover, that the classification does not differ if we go farther and consider the historical unions from the standpoint of the power possessed by the central government to maintain itself and perform its proper functions without depending upon the individual States, especially in the matter of revenue. Self-sufficiency and independence are therefore the most important distinguishing features of a

federation. This implies (1) more extensive powers than those granted to the central government of a confederation; (2) an appropriate organization which, however, varies greatly in different cases; (3) the union must not be dependent on the States for the promulgation of its laws and the carrying out of its executive judicial measures. The author regards it as desirable that the federal legislation should be executed by the federal organs and not by the states, and that the legislative and judicial power should be co-extensive, and that the federal courts have the final decision upon the constitutionality of all laws. In these respects the Swiss Federation and the German Empire are behind the other federations, for in Germany the legislation and supervision only is vested in the central government, while much of the execution of the laws, according to the constitution, falls to the state governments. Lastly, the previously mentioned possibility of altering the constitution without the unanimous consent of the States is a requisite of every strong progressive government.

These views the author does not claim are original, but are substantially in harmony with those of the Federalist. He takes great pains to show the inaccuracy of the generally accepted view of the difference between Confederation and Federation, that based upon the supposed fact that Confederations act only on the States and Federations upon the individuals of the States. This is, as he proves, *not* the view accepted by the Federalist where it is carefully demonstrated (No. 40), that under the Articles of Confederation Congress acted in some cases directly upon the individual, while on the other hand our present constitution provides in some instances for the action of the central government through the State governments. Dr. Westerkamp proves how misleading a classification upon this ground would be. The difference is a quantitative not a qualitative one. It ought to be said that the author, in spite of his admiration for the Federalist and an evident careful acquaintance with it, appears to miss the main intent of the work which was not primarily to contrast the then existing Confederation with the proposed Federation, but to prove to the suspicious States that the new government was not a *national*, *i. e.*, a unitary government which would practically annihilate them. For example, in a passage which our author himself quotes (Federalist No. 39), Madison speaks of "the difference between a federal and a *national* government." The Federalist ought always to be construed in the light of Elliotts' Debates.

But is not the task after all of determining the characteristics which serve to distinguish a Federation from a Confederation (Bundesstaat from Staatenbund), if we conscientiously consider the multifarious forms which the composite State has assumed historically in modern

times, so difficult as to suggest some defect in our method of classification? Is it not after all as if we should try to classify all colors as light and dark? Where should we place crimson, violet and orange? We would soon give up in despair and adopt some other plan. For if we look at all the various shades we are soon convinced that the categories, light and dark, which are very useful and often quite clear, have no scientific value. Ought we not to give up the vain hope of crowding all the varying forms of union into just *two* classes, attaching names to these classes as vague as the terms light and lighter? The United States passed through two stages in the development of the present union, the earlier one we call a confederation, the present one a federation. But no one has ever discovered a satisfactory definition of these two forms. How impossible then to attempt to assimilate the dozen other composite States which have developed independently since our present government to the two ill-defined types of our own experience?

Dr. Westerkamp's excellent work affords the best substantiation of this view. The definition he reaches is after all vague, and while certainly an advance over those usually accepted, the main value of his work is to show that governments, like men, offer infinitely varying peculiarities, which preclude a rigid classification.

JAMES HARVEY ROBINSON.